



ORIGINAL

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State Bar Court of California		
Hearing Department <input checked="" type="checkbox"/> Los Angeles <input type="checkbox"/> San Francisco		
PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE AND MENTAL HEALTH ISSUES		
Counsel for the State Bar THE STATE BAR OF CALIFORNIA OFFICE OF THE CHIEF TRIAL COUNSEL - ENFORCEMENT BROOKE SCHAFER 1149 South Hill Street, 9th Fl. Los Angeles, CA 90015-2299 Telephone: (213) 765-1051 Bar # 194824	Case Number(s) 03-J-00261	(for Court use) LODGED MAY 23 2006 STATE BAR COURT CLERK'S OFFICE LOS ANGELES FILED FEB 03 2010 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
<input type="checkbox"/> Counsel for Respondent <input checked="" type="checkbox"/> In Pro Per Elsa Leyva 6008 Comstock Avenue, #B Whittier, CA 90601 Bar # 112835	Submitted to Program Judge STIPULATION RE FACTS AND CONCLUSIONS OF LAW <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of Elsa Leyva Bar # 112835 A Member of the State Bar of California (Respondent)		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted February 7, 1984
(date)
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, if Respondent is not accepted into the Lawyer Assistance Program, this stipulation will be rejected and will not be binding on Respondent or the State Bar.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated, except for Probation Revocation Proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation and order consists of 9 pages.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts, are also included under "Conclusions of Law."

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- (6) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§ 6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) ☐ **Prior Record of Discipline [see standard 1.2(f)]**
- (a) ☐ State Bar Court Case # of prior case _____
- (b) ☐ Date prior discipline effective _____
- (c) ☐ Rules of Professional Conduct/State Bar Action violations _____
- (d) ☐ Degree of prior discipline _____
- (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below or under "Prior Discipline" (above)
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to the victims of his/her misconduct or the State Bar during disciplinary investigation or proceedings.
- (7) ☐ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrong doing or demonstrates a pattern of misconduct.
- (8) ☐ **No aggravating circumstances are involved.**

Additional aggravating circumstances:

C. Mitigating Circumstances [standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) ☒ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☒ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation to the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat of force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish were directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drugs or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances are involved.**

Additional mitigating circumstances:

see attached.

1 **Attachment to Alternate Discipline Program Stipulation re:**
2 **Facts and Conclusions of Law**
3 *In re Elsa Leyva*

3 Case nos. 03-J-00261

4 **I. JURISDICTION**

5 1. Respondent, Elsa Leyva, bar no. 112835, was admitted to the practice
6 of law California on February 7, 1984, and since that time has been a member of
7 the State Bar of California.

8 **II. STATEMENT OF ACTS OR OMISSIONS ACKNOWLEDGED BY**
9 **RESPONDENT AS CAUSE OR CAUSES FOR DISCIPLINE, AND**
10 **CONCLUSIONS OF LAW**

11 The Ninth Circuit Disciplinary Order of October 10, 2002

12 2. On October 10, 2002, the United States Court of Appeal for the Ninth
13 Circuit issued an order imposing discipline on Respondent, and suspending her
14 indefinitely from the practice of law before the Ninth Circuit, effective
15 immediately upon the filing of the order. The Ninth Circuit order and decision is
16 now final.

17 3. As set forth in its October 10, 2002, Order, the Ninth Circuit
18 concluded that Respondent clearly and repeatedly failed to comply with its prior
19 orders. In summary, Respondent failed, as previously ordered by the court, to
20 file a timely motion to be relieved as appointed counsel within 21 days after
21 filing a notice of appeal in the Ninth Circuit. She failed to respond to the court's
22 further order of May 3, 2002, to file the motion, and she failed to timely respond
23 to the court's June 13, 2002, order requiring her to show cause why she should
24 not be sanctioned for her failures to obey the court's orders.

25 4. After making the findings above, the Ninth Circuit found that such
26 failures constituted violations of the terms of probation imposed by a previous
27 order. Among other things, the Ninth Circuit ordered that Respondent be

1 suspended indefinitely (subject to motion for relief from indefinite suspension
2 after three years) from practice in all Ninth Circuit courts. (*See* October 10,
3 2002, Ninth Circuit order, attached hereto as Exh. 1).

4 Underlying Facts Supporting the October 10, 2002, Order

5 5. After serving as a Deputy Federal Public Defender from September
6 1985 through June 1989, Respondent opened her own solo law practice. She
7 was accepted as a member fo the Federal Indigent Defense Panel and continued
8 to represent indigent criminal defendants.

9 6. In her capacity as appointed counsel in the District Court, Respondent
10 was appointed to represent defendants who appeal their convictions and/or
11 sentences to the Ninth Circuit Court of Appeals. At least 80% of her solo
12 practice was comprised of federal court-appointed work.

13 7. From 1990 through 1995, Respondent failed to timely prosecute
14 appeals in at least six (6) cases. To wit, these involved clients named Lopez-
15 Alvarez, Visger, Hernandez-Castillo, Leung, Hernandez and Forsberg.

16 8. In 2001 Respondent failed to file an opening brief in five cases,
17 despite the issuance of both initial orders informing her that the appeals were in
18 default, and a second order of default.

19 9. As a result of Respondent's repeated defaults the Ninth Circuit issued
20 orders relieving her as counsel and necessitating appointment of new counsel in
21 some of the appeals.

22 10. In each of the defaults the court also ordered Respondent to show
23 cause in writing why she should not be sanctioned in an amount not less than
24 \$500.00 for her failure to comply with the court's rules and orders, and why she
25 should not be deemed ineligible to receive subsequent appointments. The orders
26 provided explicit warnings that Respondent's failure to timely respond could
27 result in the imposition of sanctions without further notice.

1 11. Respondent did not timely file any written response in any of the five
2 appeals.

3 12. As a result, on March 19, 2001, the Ninth Circuit issued the
4 following findings and orders, including:

5 a. That Respondent repeatedly failed to comply with the court's rules
6 and orders, resulting in prejudice to her clients;

7 b. That she has failed to prosecute appeals and to respond to orders to
8 show cause;

9 c. That for over a decade she has demonstrated a persistent disregard for
10 the court's rules and orders, which had resulted in sanctions as far back as the
11 early 1990s;

12 d. That she be sanctioned in the amount of \$2500.00 for failure to
13 comply with the orders in the five appeals in default;

14 e. That she be removed as counsel in the pending appeals;

15 f. That she be barred from further appellate appointments; and

16 g. That she show cause why she should not be suspended or disbarred
17 from practicing before the Ninth Circuit.

18 (See certified copy of the court's March 19, 2001, order is attached hereto
19 as Exh. 2).

20 13. Respondent asked for a hearing, which was conducted pursuant to
21 federal rules, after which a report and recommendation issued. Based on the
22 hearing officer's report and recommendation, on October 3, 2001, the Ninth
23 Circuit Court imposed a probationary period during which Respondent was to
24 move to withdraw from all cases in which she was counsel of record in the court,
25 within 21 days.

26 14. In the first and only appeal filed by Respondent since the court's
27 October 3, 2001, order, *United States v. Barron*, she failed to comply with the

1 October 3, 2001, order. Specifically she did not move to be relieved as counsel
2 within 21 days after filing a notice of appeal.

3 15. On May 3, 2002, the Ninth Circuit issued another order requiring
4 Respondent move to be relieved in the *Barron* appeal. Respondent did not file a
5 motion or otherwise respond. On June 13, 2002, the court issued an order
6 requiring Respondent to show cause why she should not be sanctioned in an
7 amount of at least \$1000.00 for failing to comply with the court's orders.
8 Respondent failed to respond in a timely manner, but did submit late responses.
9 Nevertheless the court imposed a \$1000.00 sanction for failing to comply with
10 its prior orders on October 10, 2002. In addition, the same date the court issued
11 an indefinite suspension from practicing before it based on the facts and
12 circumstances described above and in Exh. 1 hereto.

13 Conclusions of Law

14 – Respondent's culpability determined in the disciplinary proceeding in
15 federal court, *In re Elsa Leyva*, U.S. Ct. of Appeals for the Ninth Circuit, no. 01-
16 80030, in an order filed October 10, 2002, warrants the imposition of discipline
17 in the State of California under the laws or rules in effect in this state at the time
18 the misconduct was committed. To wit, Respondent's misconduct constitutes
19 violations of rule 3-110(A), Rules of Professional Conduct, as well as Business
20 and Professions Code section 6103.

21 – The proceedings in the Ninth Circuit as described above provided
22 Respondent with fundamental constitutional protections.

23 – The above conduct falls within the terms of Business and Professions
24 Code, section 6049.1, due to the professional misconduct in another jurisdiction.

25 **III. RULE 133 NOTICE OF PENDING MATTERS**

26 The notice referred to on page 2 was provided in writing dated July 27, 2005.

(Do not write above this line.)

In the Matter of ELSA LEYVA	Case number(s): 03-J-00261
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts and Conclusions of Law.


Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, upon Respondent's successful completion of or termination from the Program, this Stipulation will be filed and the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Statement Re: Discipline shall be imposed or recommended to the Supreme Court.

<u>8/5/05</u> Date	 Respondent's signature	<u>Elsa Leyva</u> Print name
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 Date	 Respondent's Counsel's signature	<u>N/A</u> Print name
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<u>August 10, 2005</u> Date	 Deputy Trial Counsel's signature	<u>Brooke Schafer</u> Print name
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In the Matter of ELSA LEYVA	Case number(s): 03-J-00261
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ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☒ The stipulation as to facts and conclusions of law is APPROVED.
- ☐ The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- ☐ All court dates in the Hearing Department are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 135(b) and 802(b), Rules of Procedure.)

MAY 23, 2006
Date

9



Judge of the State Bar Court
RICHARD A. PLATEL

ORIGINAL

FILED

OCT 10 2002

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re:

ELSA LEYVA, Esq., ADMITTED TO THE
BAR OF THE NINTH CIRCUIT:

March 12, 1984,

Respondent.

No. 01-80030

ORDER

Before: REINHARDT, GRABER, and BERZON, Circuit Judges

On October 3, 2001, after a hearing and report and recommendation by the Appellate Commissioner regarding the failure of Elsa Leyva, Esq., to comply with this court's orders in 11 cases during 1990-95 and 2001, this panel imposed a probationary period on respondent Leyva during which she was required to move to withdraw or to be relieved within 21 days after filing a notice of appeal in all cases in which she was counsel of record in the district court. Leyva was permitted to move for appointment or substitution of Stephen M. Lathrop, Esq., as counsel of record and to work with Lathrop on those appeals as associate counsel. The court's order stated, among other things, that Leyva was to communicate promptly with the court, clients, and new counsel.

In the first and only appeal filed by Leyva since the court's October 3, 2001 probation order, *United States v. Barron*, No. 02-50181, Leyva failed to comply

with the court's order. Specifically, Leyva did not file a timely motion to be relieved as appointed counsel within 21 days after filing the notice of appeal.

Leyva also failed to respond to the court's May 3, 2002 order to file the motion and failed timely to respond to the court's June 13, 2002 order requiring her to show cause why she should not be sanctioned in an amount not less than \$1,000 for failing to comply with the court's orders. In an order filed concurrently with this order, the court has, after reviewing Leyva's late response, imposed a \$1,000 sanction on Leyva in *Barron*.

Because Leyva violated the terms of probation imposed by the court's October 3, 2001 order, the October 3, 2001 order is hereby vacated. Respondent Leyva is hereby suspended indefinitely from the practice of law before the United States Court of Appeals for the Ninth Circuit effective immediately upon filing of this order. Until further order of this court, Leyva shall move to withdraw or be relieved within 21 days after filing the notice of appeal in all cases in which she is counsel of record in the district court. *See* 9th Cir. R. 4-1(c). Leyva may not move for appointment or substitution of Stephen M. Lathrop, Esq., as counsel of record in those cases.

Any motion to withdraw or to be relieved filed by Leyva shall state that she is moving pursuant to this order and shall refer to this docket number, 01-80030. Motions filed more than 21 days after the notice of appeal is filed shall be accompanied by a request for leave to file the motion late. Such motions need not be accompanied by an affidavit or signed statement from appellant. *See* 9th Cir. R. 4-1(c). Leyva shall communicate promptly with the court, clients, and new counsel.

Leyva may not move for relief from this indefinite suspension order until three years after the order is filed. Leyva's motion for relief shall be accompanied by a showing that Leyva is in good standing, with no disciplinary action pending, in all courts in which she is admitted and that Leyva is familiar with, willing to comply with, and capable of complying promptly and diligently with the Federal Rules of Appellate Procedure, Ninth Circuit Rules, Code of Professional Responsibility, and this court's orders. Leyva also shall submit proof that she has completed a law office management course approved for continuing legal education credit, and describe the status of her medical condition and treatment.

The Clerk shall serve this order by certified mail, return receipt requested, on:

No. 01-80030

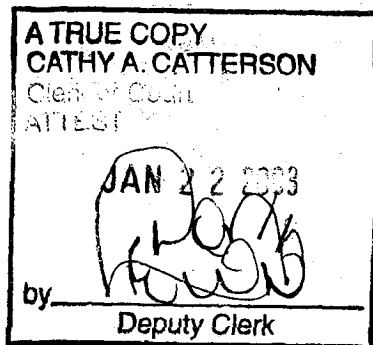
(1) Elsa Leyva, Esq., 900 Wilshire Boulevard, Suite 924, Los Angeles, California 90017; and

(2) Theodore A. Cohen, Esq., 9952 Santa Monica Boulevard, Beverly Hills, California 90212.

The Clerk shall serve this order by regular mail on:

(1) Stephen M. Lathrop, Esq., 900 Wilshire Boulevard, Suite 924, Los Angeles, California 90017; and

(2) The State Bar of California, Attention: Enforcement Department, 180 Howard Street, San Francisco, California 94105.



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CERTIFIED MAIL RECEIPT (Domestic Mail Only: No Insurance Coverage Provided)	
Postage \$	
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	
Postmark Here	
Sent To: Elsa Leyva	
Street, Apt. No., or P.O. Box No. 900 Wilshire Boulevard, S. 924	
City, State, ZIP+4 Los Angeles, CA 90017	

Post Form 3800 January 2001 See Reverse for Instructions

ORIGINAL

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAR 19 2001

CATHY A. CATTERSON, CLERK
U. S. COURT OF APPEALS

In re: ELSA LEYVA, Esq., ADMITTED TO
THE BAR OF THE NINTH CIRCUIT:
March 12, 1984,

No. 01-80030

ORDER

Respondent.

Before: WALLACE, SILVERMAN and W. FLETCHER, Circuit Judges

A review of this court's records reveals that respondent Elsa Leyva, Esq., has repeatedly failed to comply with this court's rules and orders, resulting in prejudice to her clients and unnecessary expenditures of time and effort by the court. Leyva has failed to prosecute appeals and to respond to orders to show cause. The violations that the court is aware of are set forth below. The court may at any time amend this order to reflect additional violations as they are brought to the court's attention.

For over a decade, Leyva has demonstrated a persistent disregard for this court's rules and orders that resulted in the imposition of sanctions against Leyva in at least six previous appeals: *United States v. Lopez-Alvarez*, no. 88-5421; *United States v. Visger*, no. 89-50353; *United States v. Hernandez-Castillo*, no. 89-50630;

United States v. Leung, no. 92-50498; *United States v. Hernandez*, no. 93-50546; and *United States v. Forsberg*, no. 94-50074.

More recently, in *United States v. McCoy*, no. 99-50089; *United States v. Arrellano*, no. 99-50430; *United States v. Ayala*, no. 99-50788; *United States v. Hoskins*, no. 00-50045; and *United States v. Garcia*, no. 00-50120, appointed counsel Leyva failed to file an opening brief following the issuance of both an initial order notifying her that the appeal was in default, and a second default order issued by the appellate commissioner. Leyva's defaults resulted in this court relieving her as counsel and necessitated the appointment of new counsel in each of those appeals.

In each of these five appeals, upon Leyva's removal from the appeal, the court ordered Leyva to show cause in writing why she should not be sanctioned in an amount not less than \$500.00 for her failure to comply with the court's rules and orders and why she should not be deemed ineligible to receive appointments under the Criminal Justice Act. These orders warned that Leyva's failure to file a timely response could result in the imposition of sanctions without further notice. To date, Leyva has failed to file a written response in these five appeals.

Accordingly, a sanction in the amount of \$2,500.00 is imposed on Elsa Leyva, Esq. for her failure to comply with this court's rules and orders in these five appeals. The sanction is imposed as a judgment and shall be paid to the Clerk of this court within 21 days of this order. Failure to pay this sanction may result in the imposition of additional monetary sanctions on Leyva.

Leyva appears as appointed counsel in *United States v. De La Paz-Aguilar*, no. 01-50003, in which the opening brief is due March 27, 2001. The court directs Appellate Commissioner Peter L. Shaw to remove Leyva from this appeal and to appoint new counsel to prosecute this appeal.

The court concludes that counsel Leyva shall be deemed ineligible to receive appellate appointments under the Criminal Justice Act. To effectuate counsel's removal from eligibility to receive appellate appointments under the Act, the Clerk shall also send a copy of this order to all Criminal Justice Act appointing authorities in this circuit:

- 1) Richard Curtner, Federal Public Defender, 550 West Seventh Avenue, Suite 1600, Anchorage, Alaska 99501.
- 2) Fredric F. Kay, Federal Public Defender, 97 East Congress, Suite 130, Tucson, Arizona 85701-1716.

01-80030

- 3) Magistrate Judge Cynthia Imbrogno, U.S. District Court for the Eastern District of Washington, P.O. Box 263, Spokane, Washington 99210-0263.
- 4) Magistrate Judge Barry M. Kurren, U.S. District Court for the District of Hawaii, P.O. Box 50122, Honolulu, Hawaii 96850.
- 5) Magistrate Judge Francis I. Yamashita, U.S. District Court for the District of Hawaii, P.O. Box 50122, Honolulu, Hawaii 96850.
- 6) Magistrate Judge Mikel H. Williams, U.S. District Court for the District of Idaho, 550 West Fort Street, Box 040, Boise, Idaho 83724.
- 7) Maria E. Stratton, Federal Public Defender, 321 East Second Street, Los Angeles, California 90012-4206.
- 8) Frances A. Forsman, Federal Public Defender, Phoenix Building, 330 South Third Street, Suite 700, Las Vegas, Nevada, 89101.
- 9) Magistrate Judge Richard W. Anderson, U.S. District Court for the District of Montana, 5405 Federal Building, 316 North 26th Street, Billings, Montana 59101.
- 10) Steven T. Wax, Federal Public Defender, 101 S. W. Main Street, Suite 1700, Portland, OR 97204.
- 11) Quin A. Denvir, Federal Public Defender, 801 K Street, Suite 1024, Renaissance Tower, Sacramento, California 95814.

12) Magistrate Judge Louisa S. Porter, U.S. District Court for the Southern District of California, 940 Front Street, Suite 1140, San Diego, California 92101-8925.

13) Barry Portman, Federal Public Defender, 450 Golden Gate Avenue, P.O. Box 36106, San Francisco, California 94102; and

14) Thomas W. Hillier, Federal Public Defender, 1111 Third Avenue, Suite 1100, Seattle, Washington 98101.

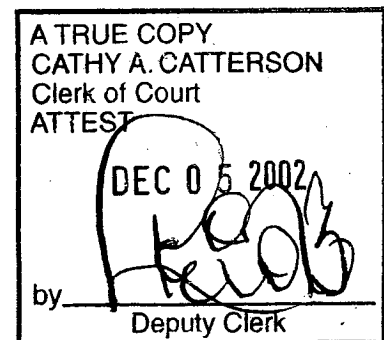
Furthermore, within 28 days of the date of this order, Leyva shall show cause in writing why she should not be suspended or disbarred from practicing before the United States Court of Appeals for the Ninth Circuit pursuant to Federal Rule of Appellate Procedure 46 for her lack of diligence and her repeated failure to comply with this court's rules and orders. Leyva's failure to request a hearing in a timely, written response to this order – received in this court within 28 days of the date of this order – will be deemed a waiver of her right to a hearing. Leyva's failure to file a timely, written response to this order will result in suspension or disbarment without further notice.

If Leyva requests a hearing, the hearing shall be conducted by Appellate Commissioner Peter L. Shaw pursuant to Federal Rule of Appellate Procedure

46(b). Commissioner Shaw will prepare a report and recommendation, which shall be submitted to a future motions panel.

The Clerk shall serve a copy of this order by certified mail (return receipt requested) on Elsa Leyva, Esq., 900 Wilshire Boulevard, Suite 924, Los Angeles, California 90017-4710.

The Clerk shall also serve this order on the State Bar of California, Attention: Enforcement Department, 180 Howard Street, San Francisco, California 94105.



CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on May 23, 2006, I deposited a true copy of the following document(s):

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

CONFIDENTIAL STATEMENT OF ALTERNATIVE DISPOSITIONS AND ORDERS

**CONTRACT AND WAIVER FOR PARTICIPATION IN THE STATE BAR COURT'S
ALTERNATIVE DISCIPLINE PROGRAM**

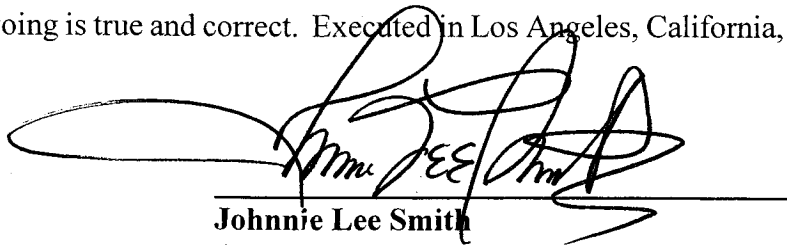
in a sealed envelope for collection and mailing on that date as follows:

☒ by personally delivering such documents to the following individuals at 1149 S. Hill St. Los Angeles Ca 90015:

BROOKE SCHAFER

ELSA LEYVA

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **May 23, 2006**.

A handwritten signature in black ink, appearing to read "Johnnie Lee Smith", is written over a horizontal line.

Johnnie Lee Smith
Case Administrator
State Bar Court